

PRELIMINARY DRAFT

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

File No.: LA0049492
AI No.: 4634
Activity No.: PER20070002

Ms. CaSandra Cooper-Gates, Director of
Human, Environmental, and Safety Services
LOOP LLC
Deepwater Port Complex
Post Office Box 7250
Metairie, Louisiana 70010-7250

RE: Draft Louisiana Pollutant Discharge Elimination System (LPDES)/National Pollutant Discharge Elimination System (NPDES) permit to discharge marine cargo hose testing water, wash water, brine, non-contact cooling water, treated sanitary wastewater, and stormwater runoff into the Gulf of Mexico (Outfalls 001, 002, 004, and 015), Bayou Lafourche (Outfalls 005 and 006), Breton Canal (Outfalls 007, 008, 012, and 020), Bayou Moreau (Outfalls 018 and 023), LL&E Canal (Outfalls 021, 025, and 024), and the Reservoir Canal (Outfalls 026 and 027) from an existing offshore deepwater port and onshore pipeline and storage facilities for the transportation of crude oil located at 224 East 101 Place in Cutoff, Lafourche Parish.

Dear Ms. Cooper-Gates:

The Louisiana Department of Environmental Quality (LDEQ) and the United States Environmental Protection Agency, Region 6 (USEPA) propose to reissue a LPDES/NPDES permit with the effluent limitations, monitoring requirements, and special conditions listed in the attached DRAFT PERMIT. Please note that this is a DRAFT PERMIT only and as such does not grant any authorization to discharge. Authorization to discharge in accordance with this permitting action will only be granted after all requirements described herein are satisfied and by the subsequent issuance of a FINAL PERMIT. Upon the effective date, this permit shall replace the previously effective LPDES/NPDES permit.

This Office will publish the enclosed public notice one time in a local newspaper of general circulation and in the Office of Environmental Services Public Notice Mailing List. A copy of the public notice containing the specific requirements for commenting on this draft permit action will be sent under separate cover at the time the public notice is arranged. In accordance with LAC 33:IX.6521.A, the applicant shall receive and is responsible for paying the invoice(s) from the above mentioned newspaper(s). LAC 33:IX.6521.A states: "...the costs of publication shall be borne by the applicant."

The invoice, fee rating worksheet, and a copy of the fee regulations will be sent under a separate cover letter as applicable. Please note that a copy of the fee rating worksheet is also attached to this draft permit. A copy of the entire Louisiana Water Quality Regulations may be obtained from the LDEQ Office of Environmental Assessment, Post Office Box 4314, Baton Rouge, Louisiana 70821-4314, (225) 219-3236.



PERMIT NUMBER

LA0049492
AI No.: 4634



OFFICE OF ENVIRONMENTAL SERVICES
Water Discharge Permit

Pursuant to the Clean Water Act, as amended (33 U.S.C. 1251 et seq.), and the Louisiana Environmental Quality Act, as amended (La. R. S. 30:2001 et seq.), rules and regulations effective or promulgated under the authority of said Acts, and in reliance on statements and representations heretofore made in the application, a Louisiana Pollutant Discharge Elimination System/National Pollutant Discharge Elimination System permit is reissued authorizing

LOOP LLC
Deepwater Port Complex
Post Office Box 7250
Metairie, Louisiana 70010-7250

Type Facility: deepwater port and pipeline and storage facilities for the transportation of crude oil

Location: 224 East 101 Place in Cutoff
Lafourche Parish

Receiving Waters: Outfalls 001, 002, 004, and 005 - Gulf of Mexico (021102), Outfalls 005 and 006 - Bayou Lafourche (020403), Outfalls 007, 008, 012, and 020 - Breton Canal (020801), Outfalls 018 and 023 - Bayou Moreau (020905), Outfalls 021 and 025 - LL&E Canal (020801), and Outfalls 026 and 027 - Reservoir Canal (020801)

to discharge in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III attached hereto.

This permit shall become effective on _____

This permit and the authorization to discharge shall expire five (5) years from the effective date of the permit.

DRAFT

Issued on _____

Cheryl Sonnier Nolan
Assistant Secretary, LDEQ

Miguel I. Flores, Director
Water Quality Protection Division, USEPA

LOOP LLC

Deepwater Port Complex

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PRELIMINARY DRAFT

Pursuant to LAC 33:IX.1309.I, LAC 33:IX.6509.A.1, and LAC 33:I.1701, you must pay any outstanding fees to the Department. Therefore, you are encouraged to verify the facility's fee status by contacting LDEQ's Office of Management and Finance, Financial Services Division (225) 219-3863. Failure to pay in the manner and time prescribed could result in applicable enforcement actions as prescribed in the Environmental Quality Act, including, but not limited to revocation or suspension of the applicable permit, and/or assessment of a civil penalty against you.

For sanitary treatment plants, the plans and specifications must be approved by the Department of Health and Hospitals, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, (225) 342-7395.

Should you have any questions concerning any part of the DRAFT PERMIT, public notice requirements, or fee, please feel free to contact Sonja Loyd, Office of Environmental Services, at the address on the preceding page or by telephone at (225) 219-3090. To ensure that all correspondence regarding this facility is properly filed into the Department's Electronic Document Management System, you must reference your Agency Interest (AI) number 4634 and LPDES/NPDES permit number LA0049492 on all future correspondence to this Department, including Discharge Monitoring Reports.

Sincerely,

Jesse Chang
Environmental Scientist Manager
Industrial Water Permits

Claudia Hosch
Branch Chief
NPDES Permits Branch (6WQ-PP)

sl

Attachments: draft permit, fact sheet, and fee sheet

c: Sonja Loyd
Water Permits Division

Gayle Denino
Office of Management & Finance

IO-W

Scott Guilliams
Water Permits Division

ec: Public Participation Group (for public notice)
Office of Environmental Assistance

Public Health Chief Engineer
Office of Public Health
Department of Health and Hospitals

Permit Compliance Unit
Office of Environmental Compliance

Laura Keen
Water Permits Division

LOOP LLC

Deepwater Port Complex

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PRELIMINARY DRAFT

PUBLIC NOTICE
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

PRELIMINARY DRAFT
LOOP LLC, Deepwater Port Complex
DRAFT WATER DISCHARGE PERMIT

The LDEQ, Office of Environmental Services, is accepting written comments on a Louisiana Pollutant Discharge Elimination System (LPDES) prepared for LOOP LLC, Deepwater Port Complex, Post Office Box 7250, Metairie, Louisiana 70010-7250. The facility is located at 224 East 101 Place in Cutoff, Lafource Parish. Upon the effective date of the final permit, the final permit shall replace the previously effective EPA (NPDES)/State (LPDES) permit.

The principal discharge from this existing source is made into the Gulf of Mexico, waters of the state classified for primary contact recreation, secondary contact recreation, fish and wildlife propagation, and oyster propagation. Under the SIC Code(s) 4612, 4463, and 5171, the applicant proposes to discharge marine cargo hose testing water, washdown water, brine, non-contact cooling water, treated sanitary wastewater, and stormwater runoff from an existing deepwater port, pipelines, and storage facilities.

During the preparation of this permit, it has been determined that this discharge will have no adverse impact on the existing uses of the receiving waterbody. As with any discharge, however, some change in existing water quality may occur.

Written comments, written requests for a public hearing, or written requests for notification of the final decision regarding this permit action may be submitted to Ms. Soumaya Ghosn at LDEQ, Public Participation Group, P. O. Box 4313, Baton Rouge LA 70821-4313. Written comments and/or written requests must be received by 12:30 p.m., (date of end of comment period). Written comments will be considered prior to a final decision.

If LDEQ finds a significant degree of public interest, a public hearing will be held. LDEQ will send notification of the final permit decision to the applicant and to each person who has submitted written comments or a written request for notification of the final permit decision.

The application, draft permit, and fact sheet are available for review at the LDEQ Public Records Center, Room 127, 602 North 5th Street, Baton Rouge, LA. Viewing hours are from 8:00 a.m. to 4:30 p.m., Monday-Friday (except holidays).

Inquiries or requests for additional information regarding this permit action, should be directed to Sonja Loyd, LDEQ, Permits Division, P. O. Box 4313, Baton Rouge, LA 70821-4313, phone (225) 219-3090.

Persons wishing to be included on the mailing list for permit actions involving this facility should contact Ms. Soumaya Ghosn in writing at LDEQ, P.O. Box 4313, Baton Rouge, LA 70821-4313, phone (225)-219-3276, or by email at maillistrequest@ldeq.org.

All correspondence should specify LA0049492, AI4634, and PER20070002.

PRELIMINARY DRAFT

Variable pro1not. = 8
Variable pro2no. =
Variable pro2not. = 0
Variable utilno. =
Variable sw no. = 1
Variable san no. = 1
Variable total page = 11
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Draft LA0049492

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfall 001, the intermittent discharge of stormwater from the oily water system (*1)

Such discharges shall be limited and monitored by the permittee as specified below:

No discharge of free oil. This means that a discharge shall not cause a film or sheen or a discoloration on the surface of the water or cause a sludge or emulsion to be deposited beneath the surface of the water. Monitoring shall be performed once per day when discharging, during conditions when an observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge, and the facility is manned. The number of days a sheen is observed must be recorded.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Outfall 001, At the point of discharge through the sea sump 45 feet below the surface of the water adjacent to the pumping platform at the Marine Terminal prior to combining with other waters (Latitude 28°53'06", Longitude 90°01'30").

FOOTNOTE:

(*1) Discharges from Outfall 001 fall within the regulatory jurisdiction of the USEPA (Part II, Paragraph H).

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfall 004, the intermittent discharge of brine (*4)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | STORET Code | Discharge Limitations | | | | Monitoring Requirements | |
|---------------------------------------|-------------|--------------------------|---------------|-----------------------|-------------------|----------------------------|-------------|
| | | (lbs/day, UNLESS STATED) | | (mg/L, UNLESS STATED) | | | |
| | | Monthly Average | Daily Maximum | Monthly Average | Daily Maximum | | |
| | | | | | | Measurement Frequency (*1) | Sample Type |
| Flow-MGD | 50050 | Report | Report | --- | --- | 1/day | Estimate |
| Oil and Grease | 03582 | --- | --- | 10 | 15 | 1/day | Grab |
| Total Dissolved Solids | 70296 | --- | --- | Report | Report | 1/week | Grab |
| Chloride | 00940 | --- | --- | Report | Report | 1/month | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*2) (Min) | 9.0 (*2) (Max) | 1/week | Grab |

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location:

Outfall 004, At the point of discharge from the brine diffuser located 2.5 miles southeast of the mouth of Bayou Lafourche approximately 30 to 35 feet below the surface of the water prior to combining with other waters (Latitude 29°06'16", Longitude 90°06'47").

FOOTNOTES:

- (*1) When discharging.
- (*2) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.
- (*3) The LDEQ must be notified in writing by the permittee prior to adding an oxygen scavenger or a corrosion inhibitor to the line. The LDEQ shall also be notified prior to discharge of pipeline volume upon termination of static operations. Approval of the discharge of water containing oxygen scavengers and/or corrosion inhibitors must be obtained from the LDEQ prior to discharge. Material Safety Data Sheets and toxicity analyses for the oxygen scavengers and/or the corrosion inhibitors must accompany the written requests. Approval shall be made only after the required information is submitted to the LDEQ. See Part II, Paragraph M.
- (*4) Discharges from Outfall 004 fall within the regulatory jurisdiction of the LDEQ (Part II, Paragraph H).

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfall 005, the intermittent discharge of marine cargo hose testing water, wash water from the oil spill equipment cleaning activities, and stormwater runoff (*3)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | <u>Discharge Limitations</u> | | | | | <u>Monitoring Requirements</u> | |
|---------------------------------------|------------------------------|--------------------------|---------------|-----------------------------------|-------------------|--------------------------------|-------------|
| | STORET Code | (lbs/day, UNLESS STATED) | | Other Units (mg/L, UNLESS STATED) | | Measurement Frequency (*1) | Sample Type |
| | | Monthly Average | Daily Maximum | Monthly Average | Daily Maximum | | |
| Flow-MGD | 50050 | Report | Report | --- | --- | 1/month | Estimate |
| TOC | 00680 | --- | --- | --- | 50 | 1/month | Grab |
| Oil and Grease | 03582 | --- | --- | --- | 15 | 1/month | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*2) (Min) | 9.0 (*2) (Max) | 1/month | Grab |

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location:

Outfall 005, At the point of discharge from the pipe exiting the secondary containment area around the Oil/Water Separator tank located at the Small Boat Harbor prior to combining with other waters (Latitude 29°07'06", Longitude 90°12'38").

FOOTNOTES:

- (*1) When discharging.
- (*2) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.
- (*3) Discharges from Outfall 005 fall within the regulatory jurisdiction of the LDEQ (Part II, Paragraph H).

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfalls 012, 018, 020, 021 (*4), 025, 026 (*4), and 027, the intermittent discharge of stormwater runoff (*3)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | STORET Code | Discharge Limitations | | | | Monitoring Requirements | |
|---------------------------------------|-------------|--------------------------|---------------|-----------------------|-------------------|----------------------------|-------------|
| | | (lbs/day, UNLESS STATED) | | (mg/L, UNLESS STATED) | | Measurement Frequency (*1) | Sample Type |
| | | Monthly Average | Daily Maximum | Monthly Average | Daily Maximum | | |
| Flow-MGD | 50050 | Report | Report | --- | --- | 1/quarter | Estimate |
| TOC | 00680 | --- | --- | --- | 50 | 1/quarter | Grab |
| Oil and Grease | 03582 | --- | --- | --- | 15 | 1/quarter | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*2) (Min) | 9.0 (*2) (Max) | 1/quarter | Grab |

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken from the following locations:

Outfall 012, At the point of discharge from the pipe exiting the secondary containment area around the Auxiliary Tank (east side of LOOP Access Road) at the Clovelly Dome Storage Facility prior to combining with other waters (Latitude 29°28'19", Longitude 90°15'07").

Outfall 018, At the point of discharge from the pipe exiting the secondary containment area around the Fourchon Booster Station in Port Fourchon prior to combining with other waters (Latitude 29°09'25", Longitude 90°10'37").

Outfall 020, At the point of discharge from the pump at the secondary containment area around the gasoline tanks located adjacent to the Warehouse in Galliano prior to combining with other waters (Latitude 29°27'47", Longitude 90°18'13").

Outfall 021, At the point of discharge from the pipe exiting the secondary containment area located on the northeast side of the Clovelly Tank Facility prior to combining with other waters (Latitude 29°27'03", Longitude 90°16'03").

Outfall 025, At the point of discharge from the pipe exiting the secondary containment area located on the northwest side of the Clovelly Tank Facility prior to combining with other waters (Latitude 29°27'03", Longitude 90°16'13").

Outfall 026, At the point of discharge from the pipe exiting the secondary containment area located on the east side of the Clovelly Tank Facility prior to combining with other waters (Latitude 29°26'52", Longitude 90°16'03").

Outfall 027, At the point of discharge from the pipe exiting the secondary containment area located on the southeast side of the Clovelly Tank Facility prior to combining with other waters (Latitude 29°26'41", Longitude 90°16'03").

FOOTNOTES:

(*1) When discharging.

(*2) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.

(*3) Discharges from Outfalls 012, 018, 020, 021, 025, 026, and 027 fall within the regulatory jurisdiction of the LDEQ (Part II, Paragraph H).

(*4) Samples taken at Outfalls 021 and 026 shall be representative of the discharges from Outfalls 025 and 027, respectively. DMR submittal using the representative sample data is required for Outfalls 025 and 027. See Part II, Paragraph L.

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfall 015, the continuous discharge of non-contact cooling water (*7)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | STORET Code | Discharge Limitations | | | | Monitoring Requirements | |
|---------------------------------------|-------------|--------------------------|---------------|-----------------------|-------------------|-------------------------|-------------|
| | | (lbs/day, UNLESS STATED) | | (mg/L, UNLESS STATED) | | Measurement Frequency | Sample Type |
| | | Monthly Average | Daily Maximum | Monthly Average | Daily Maximum | | |
| Flow-MGD | 50050 | Report | Report | 4.32 | 5.4 | 1/month | Estimate |
| TOC (net)(*6) | 00680 | --- | --- | --- | 5 | 1/month | Grab |
| Oil and Grease | 03582 | --- | --- | --- | 15 | 1/month | Grab |
| TRC (*5) | 50060 | --- | --- | 0.5 | 1.0 | 1/week | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*1) (Min) | 9.0 (*1) (Max) | 1/month | Grab |

WHOLE EFFLUENT (ACUTE)

| <u>TOXICITY TESTING (*3)</u> | STORET Code | (Percent %, UNLESS STATED) | | | | Measurement Frequency (*2) | Sample Type (*4) |
|--|-------------|----------------------------|---------|---------|---------|----------------------------|------------------|
| | | Monthly Avg | 48-Hour | Minimum | Minimum | | |
| NOEC, Pass/Fail [0/1], Lethality, Static Renewal, 48-Hour Acute, <u>Menidia beryllina</u> | TEM6B | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |
| NOEC, Value [%], Lethality, Static Renewal, 48-Hour Acute, <u>Menidia beryllina</u> | TOM6B | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |
| NOEC, Value [%], Coefficient of Variation, Static Renewal, 48-Hour Acute, <u>Menidia beryllina</u> | TQM6B | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |
| NOEC, Pass/Fail [0/1], Lethality, Static Renewal, 48-Hour Acute, <u>Mysidopsis bahia</u> | TEM3E | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |
| NOEC, Value [%], Lethality, Static Renewal, 48-Hour Acute <u>Mysidopsis bahia</u> | TOM3E | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |
| NOEC, Value [%], Coefficient of Variation, Static Renewal, 48-Hour Acute <u>Mysidopsis bahia</u> | TQM3E | --- | --- | Report | Report | 1/quarter | 24-hr. Composite |

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (Outfall 015 continued)

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location:

Outfall 015, At the point of discharge from the Pumping Platform at the Marine Terminal prior to combining with other waters (Latitude 28°53'06", Longitude 90°01'30").

FOOTNOTES:

- (*1) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.
- (*2) See Part II, Paragraph P, Section 4 for the Monitoring Frequency Reduction provision.
- (*3) Biomonitoring shall only be required during periods of chlorination or other biocide usage. The permittee shall notify the LDEQ and USEPA no later than 30 days prior to commencement of its chlorination activities. See Part II, Paragraph R for Biomonitoring requirements.
- (*4) See Part II, Paragraph R, Section 3.d.iii.
- (*5) Total Residual Chlorine (TRC) shall only be monitored during periods of chlorination or other biocide usage.
- (*6) Simultaneous sampling of the effluent and the influent shall be required to establish the net value. The influent, effluent, and net value shall be reported on the DMR.
- (*7) Discharges from Outfall 015 fall within the regulatory jurisdiction of the USEPA (Part II, Paragraph H).

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfalls 002 (*3), 007, 008, and 024, the discharge of treated sanitary wastewater (*4)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | STORET Code | Discharge Limitations | | | | Monitoring Requirements | |
|------------------------------------|-------------|--------------------------|----------------|-----------------------------------|-------------------|----------------------------|-------------|
| | | (lbs/day, UNLESS STATED) | | Other Units (mg/L, UNLESS STATED) | | Measurement Frequency (*1) | Sample Type |
| | | Monthly Average | Weekly Average | Monthly Average | Weekly Average | | |
| Flow-MGD | 50050 | Report | Report | --- | --- | 1/6 months | Estimate |
| BOD ₅ | 00310 | --- | --- | 30 | 45 | 1/6 months | Grab |
| TSS | 00530 | --- | --- | 30 | 45 | 1/6 months | Grab |
| Fecal Coliform colonies/100 ml | 74055 | --- | --- | 200 | 400 | 1/6 months | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*2) (Min) | 9.0 (*2) (Max) | 1/6 months | Grab |

There shall be no discharge of floating solids or visible foam in other than trace amounts, nor of free oil or other oil materials, nor of toxic materials in quantities such as to cause acute toxicity to aquatic organisms. Furthermore, there shall be no visible sheen or stains attributable to this discharge.

The discharge of garbage is prohibited. "Garbage" means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78. [Exception] Comminuted food waste (able to pass through a screen with a mesh no larger than 25 mm, approximately 1 inch) may be discharged when 12 nautical miles or more from land.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations:

Outfall 002 - At the point of discharge from the sanitary treatment system located on the Control Platform at the Marine Terminal prior to combining with other waters (Latitude 28°53'06", Longitude 90°01'30").

Outfall 007 - At the point of discharge from the sanitary treatment system located between the Operations Center and Warehouse prior to combining with other waters (Latitude 29°27'46", Longitude 90°18'14").

Outfall 008 - At the point of discharge from the sanitary treatment system located beneath the Control Building at the Clovelly Dome Storage Terminal Facility prior to combining with other waters (Latitude 29°28'25", Longitude 90°15'12").

Outfall 024 - At the point of discharge from the sanitary treatment system located Clovelly Tank Facility prior to combining with other waters (Latitude 29°27'01", Longitude 90°16'00").

FOOTNOTES:

- (*1) When discharging.
- (*2) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.
- (*3) The discharge from Outfall 002 shall only be monitored for Flow, TSS, BOD₅, and pH.
- (*4) Discharges from Outfalls 007, 008, and 024 fall within the regulatory jurisdiction of the LDEQ. Discharges from Outfall 002 fall within the regulatory jurisdiction of the USEPA. See Part II, Paragraph H.

PRELIMINARY DRAFT

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)

During the period beginning the effective date and lasting through the expiration date the permittee is authorized to discharge from:

Outfalls 006 and 023, the discharge of treated sanitary wastewater (*3)

Such discharges shall be limited and monitored by the permittee as specified below:

| Effluent Characteristic | STORET Code | Discharge Limitations | | | | Monitoring Requirements | |
|------------------------------------|-------------|--------------------------|----------------|-----------------------|-------------------|----------------------------|-------------|
| | | (lbs/day, UNLESS STATED) | | (mg/L, UNLESS STATED) | | Measurement Frequency (*1) | Sample Type |
| | | Monthly Average | Weekly Average | Monthly Average | Weekly Average | | |
| Flow-MGD | 50050 | Report | Report | --- | --- | 1/6 months | Estimate |
| BOD ₅ | 00310 | --- | --- | 30 | 45 | 1/6 months | Grab |
| TSS | 00530 | --- | --- | 30 | 45 | 1/6 months | Grab |
| Fecal Coliform colonies/100 ml | 74055 | --- | --- | 14 | 43 | 1/6 months | Grab |
| pH Min/Max Values (Standard Units) | 00400 | --- | --- | 6.0 (*2) (Min) | 9.0 (*2) (Max) | 1/6 months | Grab |

There shall be no discharge of floating solids or visible foam in other than trace amounts, nor of free oil or other oil materials, nor of toxic materials in quantities such as to cause acute toxicity to aquatic organisms. Furthermore, there shall be no visible sheen or stains attributable to this discharge.

The discharge of garbage is prohibited. "Garbage" means all kinds of food waste, wastes generated in living areas on the facility, and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the facility and liable to be disposed of continuously or periodically, except dishwater, graywater, and those substances that are defined or listed in other Annexes to MARPOL 73/78. [Exception] Comminuted food waste (able to pass through a screen with a mesh no larger than 25 mm, approximately 1 inch) may be discharged when 12 nautical miles or more from land.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations:

Outfall 006 - At the point of discharge from the sanitary treatment system located at the Small Boat Harbor prior to combining with other waters (Latitude 29°07'02", Longitude 90°12'35").

Outfall 023 - At the point of discharge from the sanitary treatment system located Fourchon Booster Station, Port Fourchon prior to combining with other waters (Latitude 29°09'22", Longitude 90°10'30").

FOOTNOTES:

- (*1) When discharging.
- (*2) The permittee shall report on the Discharge Monitoring Reports both the minimum and maximum instantaneous pH values measured.
- (*3) Discharges from Outfalls 006 and 023 fall within the regulatory jurisdiction of the LDEQ. See Part II, Paragraph H.

PART II

OTHER REQUIREMENTS

In addition to the standard conditions required in all permits and listed in Part III, the Office has established the following additional requirements in accordance with the Louisiana Water Quality Regulations.

- A. The Department of Environmental Quality reserves the right to impose more stringent discharge limitations or additional restrictions, if necessary, to maintain the water quality integrity and the designated uses of the receiving water bodies.
- B. This permit does not in any way authorize the permittee to discharge a pollutant not listed or quantified in the application or limited or monitored for in the permit.
- C. Authorization to discharge pursuant to the conditions of this permit does not relieve the permittee of any liability for damages to state waters or private property. For discharges to private land, this permit does not relieve the permittee from obtaining proper approval from the landowner for appropriate easements and rights of way.
- D. For definitions of monitoring and sampling terminology see Part III, Section F.
- E. LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS (LDHH) SANITARY REQUIREMENTS

In accordance with La.R.S.40.4(A)(6) the plans and specifications of all sanitary sewerage treatment systems, both public and private, must be approved by the state health officer or his designee. It shall be unlawful for any person, firm, or corporation, both municipal and private to operate a sanitary sewage treatment facility under this permit without proper authorization from the state health officer. In addition, sewage systems with a design capacity 1,500 gallons per day or greater, it shall be unlawful for any person, firm, or corporation, both municipal and private, operating a water supply system or sewerage system to operate same unless the competency of the operator is duly certified to by the State Health Officer. Furthermore, it shall be unlawful for any person to perform the duties of an operator without being duly certified. Therefore, the permittee should take whatever action is necessary to comply with La.R.S.40:1149.

- F. 24-HOUR ORAL REPORTING: DAILY MAXIMUM LIMITATION VIOLATIONS

Under the provisions of Part III.D.6.e.(3) of this permit, violations of daily maximum limitations for the following pollutants shall be reported orally to the Office of Environmental Compliance within 24 hours from the time the permittee became aware of the violation followed by a written report in five days.

Pollutant(s): None

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

G. 40 CFR PART 136 (See LAC 33:IX.4901) ANALYTICAL REQUIREMENTS

Unless otherwise specified in this permit, monitoring shall be conducted according to analytical, apparatus and materials, sample collection, preservation, handling, etc., procedures listed at 40 CFR Part 136, and in particular, Appendices A, B, and C (See LAC 33:IX.4901).

- H. Please be advised that appeals and the resolution thereof shall be directed to the agency having regulatory jurisdiction over that portion of the permit.

I. FLOW MEASUREMENT "ESTIMATE" SAMPLE TYPE

If the flow measurement sample type in Part I is specified as "estimate", flow measurements shall not be subject to the accuracy provisions established at Part III.C.6 of this permit. The daily flow value may be estimated using best engineering judgement.

- J. The permittee shall achieve compliance with the effluent limitations and monitoring requirements specified for discharges in accordance with the following schedule: **Effective date of the permit**

K. PERMIT REOPENER CLAUSE

The permittee shall submit analytical data for Outfall 024 (LAC 33:IX.2501.G.7.c) and Outfall 026 (LAC 33:IX.2511.C.1.a.v.) within one (1) year after the effective date of the permit. Upon the submittal of the analytical data, the LDEQ may choose to modify this permit to change the effluent limits based on this information.

In accordance with LAC 33:IX.2903, this permit may be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitations issued or approved under sections 301(b)(2)(c) and (D); 304(b)(2); and 307(a)(2) of the Clean Water Act, if the effluent standard or limitations so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit; or
3. Require reassessment due to change in 303(d) status of waterbody; or
4. Incorporates the results of any total maximum daily load allocation, which may be approved for the receiving water body.

The Louisiana Department of Environmental Quality (LDEQ) reserves the right to impose more stringent discharge limitations and/or additional restrictions in the future to maintain the water quality integrity and the designated uses of the receiving water bodies based upon additional water quality studies and/or TMDLs. The LDEQ also reserves the right to modify or revoke and reissue this permit based upon any changes to established TMDLs for this discharge, or to accommodate for pollutant trading provisions in approved TMDL watersheds as necessary to achieve compliance with water quality

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

standards. Therefore, prior to upgrading or expanding this facility, the permittee should contact the Department to determine the status of the work being done to establish future effluent limitations and additional permit conditions.

L. REPRESENTATIVE OUTFALLS

The permittee has identified the following outfalls as discharging substantially identical effluents:

The discharges from Outfalls 021/025 and 026/027 include stormwater runoff from the containment area around Clovelly Tank Facility. Outfalls 021 and 026 are representative of Outfalls 025 and 027, respectively.

The permittee shall test the effluent of the outfall designated as the representative outfall and report that the quantitative data also applies to the substantially identical outfall. The permittee must include the following information in the facility's pollution prevention plan: locations of the outfalls; why the outfalls are expected to discharge substantially identical effluents; estimates of the size of the drainage area (in square feet) for each of the outfalls; and an estimate of the runoff coefficient of the drainage areas (low: under 40%; medium: 40% to 65%; and high: above 65%).

M. APPLICABLE TO OUTFALL 004

1. The permittee shall operate a diffusion system for the brine disposal to achieve a maximum rate of diffusion while minimizing the area which may be adversely affected.
2. If the permittee uses an oxygen scavenger, the concentration shall be no greater than 18 ppm K_2SO_3 /ppm DO or 10 ppm NH_4HSO_3 /ppm DO. The permittee shall maintain a detectable DO level in the pipeline at all times. A report of the mean DO level and the range of DO shall be provided to LDEQ on a monthly basis as an addendum to the DMRs due by the 15th day of each month.
3. After leaching operations are completed and during prolonged periods of static operations (i.e. no discharge) a corrosion inhibitor may be used to protect the brine line from corrosion. Permittee will notify the LDEQ prior to addition of inhibitor, and also prior to discharge of pipeline volume upon termination of static operations. Discharge concentration shall in no case exceed 100 mg/L.

N. PROTECTION OF ENDANGERED SPECIES

Reserved pending completion of Endangered Species Act, Section 7 consultation.

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

O. REOPENER CLAUSE FOR ENDANGERED SPECIES PROTECTION

This permit may be modified or revoked and reissued based on the results of the Endangered Species Act, Section 7 consultation with the National Marine Fisheries Services.

P. STORMWATER DISCHARGES

1. This section applies to all stormwater discharges from the facility, either through permitted outfalls or through outfalls which are not listed in the permit or as sheet flow. The purpose of the pollution prevention plan is to identify potential sources of pollution that would reasonably be expected to affect the quality of stormwater and identify the practices that will be used to prevent or reduce the pollutants in stormwater discharges.
2. Any runoff leaving the developed areas of the facility, other than the permitted outfall(s), exceeding 50 mg/L TOC, 15 mg/L Oil and Grease, or having a pH less than 6.0 or greater than 9.0 standard units shall be a violation of this permit. Any discharge in excess of these limitations, which is attributable to offsite contamination shall not be considered a violation of this permit. A visual inspection of the facility shall be conducted and a report made annually as described in Paragraph 4 below.
3. The permittee shall prepare, implement, and maintain a Storm Water Pollution Prevention Plan (SWP3) within six (6) months of the effective date of the final permit. The terms and conditions of the SWP3 shall be an enforceable Part of the permit. If the permittee maintains other plans that contain duplicative information, those plans could be incorporated by reference into the SWP3. Examples of these type plans include, but are not limited to: Spill Prevention Control and Countermeasure Plan (SPCC), Best Management Plan (BMP), Response Plans, etc. EPA document 833-R-92-002 (Storm Water Management for Industrial Activities) may be used as a guidance and may be obtained by writing to the Water Resource Center (RC_4100), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington D.C. 20460 or by calling (202) 566-1729 or via the Wetlands Helpline (800) 832-7828.
4. The following conditions are applicable to all facilities and shall be included in the SWP3 for the facility.
 - a. The permittee shall conduct an annual inspection of the facility site to identify areas contributing to the storm water discharge from developed areas of the facility and evaluate whether measures to reduce pollutant loadings identified in the SWP3 are adequate and have been properly implemented in accordance with the terms of the permit or whether additional control measures are needed.
 - b. The permittee shall develop a site map which includes all areas where stormwater may contact potential pollutants or substances which can cause pollution. Any location where reportable quantities leaks or spills have previously occurred are to be documented in the

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

SWP3. The SWP3 shall contain a description of the potential pollutant sources, including, the type and quantity of material present and what action has been taken to assure stormwater precipitation will not directly contact the substances and result in contaminated runoff.

- c. Where experience indicates a reasonable potential for equipment failure (e.g. a tank overflow or leakage), natural condition of (e.g. precipitation), or other circumstances which result in significant amounts of pollutants reaching surface waters, the SWP3 should include a prediction of the direction, rate of flow and total quantity of pollutants which could be discharged from the facility as a result of each condition or circumstance.
- d. The permittee shall maintain for a period of three years a record summarizing the results of the inspection and a certification that the facility is in compliance with the SWP3, and identifying any incidents of noncompliance. The summary report should contain, at a minimum, the date and time of inspection, name of inspector(s), conditions found, and changes to be made to the SWP3.
- e. The summary report and the following certification shall be signed in accordance with LAC 33:IX.2503. The summary report is to be attached to the SWP3 and provided to the Department upon request.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signatory requirements for the certification may be found in Part III, Section D.10 of this permit.

- f. The permittee shall make available to the Department, upon request, a copy of the SWP3 and any supporting documentation.
5. The following shall be included in the SWP3, if applicable.
- a. The permittee shall utilize all reasonable methods to minimize any adverse impact on the drainage system including but not limited to:
 - i. maintaining adequate roads and driveway surfaces;
 - ii. removing debris and accumulated solids from the drainage system; and
 - iii. cleaning up immediately any spill by sweeping, absorbent pads, or other appropriate methods.

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

- b. All spilled product and other spilled wastes shall be immediately cleaned up and disposed of according to all applicable regulations, Spill Prevention and Control (SPC) plans or Spill Prevention Control and Countermeasures (SPCC) plans. Use of detergents, emulsifiers, or dispersants to clean up spilled product is prohibited except where necessary to comply with State or Federal safety regulations (i.e., requirement for non-slippery work surface) except where the cleanup practice does not result in a discharge and does not leave residues exposed to future storm events. In all such cases, initial cleanup shall be done by physical removal and chemical usage shall be minimized.
- c. All equipment, parts, dumpsters, trash bins, petroleum products, chemical solvents, detergents, or other materials exposed to stormwater shall be maintained in a manner which prevents contamination of stormwater by pollutants.
- d. All waste fuel, lubricants, coolants, solvents, or other fluids used in the repair or maintenance of vehicles or equipment shall be recycled or contained for proper disposal. Spills of these materials are to be cleaned up by dry means whenever possible.
- e. If applicable, all storage tank installations (with a capacity greater than 660 gallons for an individual container, or 1,320 gallons for two or more containers in aggregate within a common storage area) shall be constructed so that a secondary means of containment is provided for the entire contents of the largest tank plus sufficient freeboard to allow for precipitation. Diked areas should be sufficiently impervious to contain spills.
- f. All diked areas surrounding storage tanks or stormwater collection basins shall be free of residual oil or other contaminants so as to prevent the accidental discharge of these materials in the event of flooding, dike failure, or improper draining of the diked area. All drains from diked areas shall be equipped with valves which shall be kept in the closed condition except during periods of supervised discharge.
- g. All check valves, tanks, drains, or other potential sources of pollutant releases shall be inspected and maintained on a regular basis to assure their proper operation and to prevent the discharge of pollutants.
- h. The permittee shall assure compliance with all applicable regulations promulgated under the Louisiana Solid Waste and Resource Recovery Law and the Hazardous Waste Management Law (L.R.S. 30:2151, etc.). Management practices required under above regulations shall be referenced in the SWP3.
- i. The permittee shall amend the SWP3 whenever there is a change in the facility or change in the operation of the facility which materially increases the potential for the ancillary activities to result in a discharge of significant amounts of pollutants.

PRELIMINARY DRAFT**OTHER REQUIREMENTS (continued)**

- j. If the SWP3 proves to be ineffective in achieving the general objectives of preventing the release of significant amounts of pollutants to water of the state, then the specific objectives and requirements of the SWP3 shall be subject to modification to incorporate revised SWP3 requirements.

6. Facility Specific SWP3 Conditions: None

Q. DISCHARGE MONITORING REPORTS

Monitoring results must be reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320-1 or an approved substitute). All monitoring reports must be retained for a period of at least three (3) years from the date of the sample measurement. The permittee shall make available to this Department, upon request, copies of all monitoring data required by this permit.

If there is no discharge during the reporting period, place an "X" in the NO DISCHARGE box located in the upper right corner of the DMR for that outfall.

Monitoring results for each month shall be summarized on a DMR form (one DMR form per monitoring period per outfall) and submitted to the Office of Environmental Compliance either hand delivered or postmarked no later than the 15th day of the month following each reporting period.

1. For parameters that require a monitoring frequency of monthly or more frequent, DMRs shall be submitted in accordance with the following schedule:

No later than the 15th day of the following month.

2. For parameters that require a quarterly monitoring frequency, DMRs shall be submitted in accordance with the following schedule:

| <u>Monitoring Period</u> | <u>DMR Postmark Date</u> |
|-----------------------------|--------------------------|
| January, February, March | April 15th |
| April, May, June | July 15th |
| July, August, September | October 15th |
| October, November, December | January 15th |

2. For parameters that require a semiannual monitoring frequency, DMRs shall be submitted in accordance with the following schedule:

| <u>Monitoring Period</u> | <u>DMR Postmark Date</u> |
|--------------------------|--------------------------|
| January - June | July 15th |
| July - December | January 15th |

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

3. For parameters that require an annual monitoring frequency, DMRs shall be submitted in accordance with the following schedule:

Monitoring Period

DMR Postmark Date

January-December

January 15th

LPDES/NPDES permit LA0049492 is being reissued jointly by the LDEQ and the USEPA. Duplicate copies of DMRs (one set of originals and one set of copies) signed and certified as required by LAC 33:IX.2503.B, and all other reports (one set of originals) required by this permit shall be submitted to the Permit Compliance Unit at the following address:

Department of Environmental Quality
Office of Environmental Compliance
Permit Compliance Unit
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312

For USEPA reporting, DMR forms and all other reports (i.e. noncompliance reports, etc.) pertaining to these outfalls, must be submitted to the following address:

U.S. Environmental Protection Agency, Region 6
Water Quality Protection Division
1445 Ross Avenue
Dallas, Texas 75202

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

R. 48 HR ACUTE BIOMONITORING REQUIREMENTS: MARINE

1. SCOPE AND METHODOLOGY

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO OUTFALL: 015

REPORTED ON DMR AS OUTFALL: TX1

CRITICAL DILUTION: 2.8%

EFFLUENT DILUTION SERIES: 1.2%, 1.6%, 2.1%, 2.8%,
and 3.7%

COMPOSITE SAMPLE TYPE: Defined at Part I

TEST SPECIES/METHODS: 40 CFR Part 136 (See LAC
33:IX.4901)

Mysidopsis bahia (Mysid shrimp) acute static renewal 48-hour definitive toxicity test using EPA 821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with ten (10) organisms per replicate must be used in the control and in each effluent dilution of this test.

Menidia beryllina (Inland Silverside minnow) acute static renewal 48-hour definitive toxicity test using EPA 821-R-02-012, or the latest update thereof. A minimum of five (5) replicates with ten (10) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Effect Concentration) is defined as the greatest effluent dilution at and below which lethality that is statistically different from the control (0% effluent) at the 95% confidence level does not occur.
- c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.
- d. Test failure is defined as a demonstration of statistically significant lethal effects to a test species at or below the effluent critical dilution.

2. PERSISTENT LETHALITY

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal effects at or below the critical dilution. Significant lethal effects are herein defined as a statistically significant difference at the 95% confidence level

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

between the survival of the appropriate test organism in a specified effluent dilution and the control (0% effluent).

a. Part I Testing Frequency Other Than Monthly

- i. The permittee shall conduct a total of two (2) additional tests for any species that demonstrates significant lethal effects at or below the critical dilution. The two additional tests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two additional tests in lieu of routine toxicity testing, unless the specified testing frequency for the species demonstrating significant lethal effects is monthly. The full report shall be prepared for each test required by this section in accordance with procedures outlined in item 4 of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.
- ii. If one or both of the two additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in item 5 of this section. The permittee shall notify the LDEQ and USEPA in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required retests.
- iii. If one or both of the two additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall henceforth increase the frequency of testing for this species to once per quarter for the life of the permit.
- iv. The provisions of item 2.a are suspended upon submittal of the **TRE Action Plan**.

3. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

- i. Each toxicity test control (0% effluent) must have a survival equal to or greater than 90%.
- ii. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for the Mysid shrimp survival test and the Inland Silverside minnow survival test.
- iii. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal effects are exhibited for the Mysid shrimp survival test and the Inland Silverside minnow survival test.

Test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.

b. Statistical Interpretation

For the Mysid shrimp survival test and the Inland Silverside minnow survival test, the statistical analyses used to determine if there is a statistically significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA 821-R-02-012, or the most recent update thereof.

If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 90% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing test regardless of the NOEC, and the permittee shall report a NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

- i. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and salinity to the closest downstream perennial water for;
 - (A) toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and

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OTHER REQUIREMENTS (continued)

- (B) toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- ii. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of item 3.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
 - (A) a synthetic dilution water control which fulfills the test acceptance requirements of item 3.a was run concurrently with the receiving water control;
 - (B) the test indicating receiving water toxicity has been carried out to completion (i.e., 48 hours);
 - (C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by item 4 below; and
 - (D) the synthetic dilution water shall have a pH, hardness, and salinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.
- d. Samples and Composites
 - i. The permittee shall collect two 24-hour flow-weighted composite samples from the outfall(s) listed at item 1.a above. A 24-hour composite sample consists of a minimum of 4 effluent portions collected at equal time intervals representative of a 24-hour operating day and combined proportional to flow or a sample continuously collected proportional to flow over a 24-hour operating day.
 - ii. The permittee shall collect a second 24-hour composite sample for use during the 24-hour renewal of each dilution concentration for both tests. The permittee must collect the 24-hour composite samples so that the maximum holding time for any effluent sample shall not exceed 36 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first 24-hour composite sample. Samples shall be chilled to 0-6 degrees Centigrade during collection, shipping and/or storage.

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

- iii. The permittee must collect the 24-hour composite samples such that the effluent samples are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on an intermittent basis.
- iv. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must collect an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in item 4 of this section.
- v. The permittee shall have the sample dechlorinated in the laboratory prior to installation of dechlorination systems. However, upon operation of dechlorination systems, the permittee shall not allow the sample to be dechlorinated at the laboratory.

4. REPORTING

- a. A valid test must be submitted during each reporting period. The permittee shall prepare a full report of the results of all tests conducted pursuant to this Part in accordance with the Report Preparation Section of EPA 821-R-02-012, for every valid or invalid toxicity test initiated, whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of Part III.C.3 of this permit. For any test which fails, is considered invalid, or which is terminated early for any reason, the full report must be submitted for agency review. The permittee shall submit the first full report to:

Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Permit Compliance Unit

U.S. Environmental Protection Agency, Region 6
Water Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

- b. The permittee shall report the following results of each valid toxicity test on the subsequent monthly DMR for that reporting period in accordance with Part III.D of this permit. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR. The permittee shall submit the Table 1 and Table 2 Summary Sheets with each valid test.

i. Menidia beryllina (Inland Silverside minnow)

- (A) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM6B.
- (B) Report the NOEC value for survival, Parameter No. TOM6B.
- (C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM6B.

ii. Mysidopsis bahia (Mysid shrimp)

- (A) If the NOEC for survival is less than the critical dilution, enter a "1"; otherwise, enter a "0" for Parameter No. TEM3E.
- (B) Report the NOEC value for survival, Parameter No. TOM3E.
- (C) Report the highest (critical dilution or control) Coefficient of Variation, Parameter No. TQM3E.

iii. The permittee shall report the following results for all VALID toxicity retests on the DMR for that reporting period.

- (A) Retest #1 (STORET 22415): If the first monthly retest following failure of a routine test for either test species results in an NOEC for survival less than the critical dilution, report a "1"; otherwise, report a "0."
- (B) Retest #2 (STORET 22416): If the second monthly retest following failure of a routine test for either test species results in an NOEC for survival less than the critical dilution, report a "1"; otherwise, report a "0."

If, for any reason, a retest cannot be performed during the reporting period in which the triggering routine test failure is experienced, the permittee shall report it on the following reporting period's DMR, and the

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OTHER REQUIREMENTS (continued)

comments section of both DMRs shall be annotated to that effect. If retesting is not required during a given reporting period, the permittee shall leave these DMR fields blank.

The permittee shall submit the toxicity testing information contained in Tables 1 and 2 of this permit with the DMR subsequent to each and every toxicity test reporting period. The DMR and the summary table should be sent to the address indicated in 4.a.

Monitoring Frequency Reduction

- i. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters of testing for one or both test species, with no lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Inland Silverside minnow) and not less than once per six months for the more sensitive test species (usually the Mysid Shrimp). Monitoring frequency reduction shall not apply to monitoring frequencies of once per year.
- ii. CERTIFICATION - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item 3.a above. In addition, the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information, the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance Unit to update the permit reporting requirements.
- iii. SURVIVAL FAILURES - If any test fails the survival endpoint at any time during the life of this permit, two monthly retests are required and the monitoring frequency for the affected test species shall be increased to once per quarter until the permit is reissued. Monthly retesting is not required if the permittee is performing a TRE.
- iv. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the

Part II

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monitoring frequency for both test species reverts to once per quarter until the permit is reissued.

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OTHER REQUIREMENTS (continued)

5. TOXICITY REDUCTION EVALUATION (TRE)

- a. Within ninety (90) days of confirming lethality in any retest, the permittee shall submit a **Toxicity Reduction Evaluation (TRE) Action Plan and Schedule** for conducting a TRE. The **TRE Action Plan** shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The **TRE Action Plan** shall lead to the successful elimination of effluent toxicity at the critical dilution and include the following:

- i. **Specific Activities.** The plan shall detail the specific approach the permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents "**Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures**" (EPA-600/6-91/003) and "**Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I**" (EPA-600/6-91/005), or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents "**Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity**" (EPA/600/R-92/080) and "**Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity**" (EPA/600/R-92/081), as appropriate.

The documents referenced above may be obtained through the National Technical Information Service (NTIS) by phone at 1-800-553-6847, or by writing:

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OTHER REQUIREMENTS (continued)

U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

- ii. Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;

Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 24 hours of test initiation, each 24-hour composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual 24-hour composite samples, for the chemical specific analysis;

- iii. Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and
 - iv. Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the **TRE Action Plan** within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.
 - c. The permittee shall submit a quarterly **TRE Activities Report**, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - i. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;
 - ii. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - iii. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution.

PRELIMINARY DRAFT

OTHER REQUIREMENTS (continued)

The **TRE Activities Report** shall be submitted to the following addresses:

Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Permit Compliance Unit

U.S. Environmental Protection Agency, Region 6
Water Enforcement Branch
1445 Ross Avenue
Dallas, Texas 75202

- d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming lethality in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.

A copy of the Final Report on Toxicity Reduction Evaluation Activities shall also be submitted to the above addresses.

- e. Quarterly testing during the TRE is a minimum monitoring requirement. LDEQ and USEPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44 (d) (1) (v) and state regulations at LAC 33:IX.2707.D.1.e.

TABLE 1
SUMMARY SHEET

Mysidopsis bahia ACUTE SURVIVAL TEST RESULTS
~~PRELIMINARY DRAFT~~

PERMITTEE: LOOP LLC
 FACILITY SITE: Deepwater Port Complex
 LPDES PERMIT NUMBER: LA0049492, AI No. 4634
 OUTFALL IDENTIFICATION: 015
 OUTFALL SAMPLE IS FROM _____ SINGLE _____ MULTIPLE DISCHARGES
 BIOMONITORING LABORATORY: _____
 DILUTION WATER USED: _____ RECEIVING WATER _____ LAB WATER _____
 CRITICAL DILUTION 2.8% DATE TEST INITIATED _____

1. LOW-FLOW LETHALITY:

Is the mean survival at 48 hours significantly less ($p=0.05$) than the control survival for the low flow or critical dilution? _____ Yes _____ No

DILUTION SERIES RESULTS - Mysidopsis

| TIME OF READING | REP | 0% | 1.2% | 1.6% | 2.1% | 2.8% | 3.7% |
|-----------------|-----|----|------|------|------|------|------|
| 24-HOUR | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| 48-HOUR | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| MEAN | | | | | | | |

2. Are the test results to be considered valid? _____ Yes _____ No
 If X no (test invalid), what are the reasons for invalidity?

3. Is this a retest of a previous invalid test? _____ Yes _____ No
 Is this a retest of a previous test failure? _____ Yes _____ No

4. Enter percent effluent corresponding to each NOEC (No Observed Effect Concentration) for Mysidopsis bahia:

NOEC = _____ % effluent
 LC₅₀48 = _____ % effluent

TABLE 2
SUMMARY SHEET

PRELIMINARY DRAFT

Menidia beryllina ACUTE SURVIVAL TEST RESULTS

PERMITTEE: LOOP LLC
 FACILITY SITE: Deepwater Port Complex
 LPDES PERMIT NUMBER: LA0049492, AI No. 4634
 OUTFALL IDENTIFICATION: 015
 OUTFALL SAMPLE IS FROM _____ SINGLE _____ MULTIPLE DISCHARGES
 BIOMONITORING LABORATORY: _____
 DILUTION WATER USED: _____ RECEIVING WATER _____ LAB WATER _____
 CRITICAL DILUTION 2.8% DATE TEST INITIATED _____

1. LOW-FLOW LETHALITY:

Is the mean survival at 48 hours significantly less ($p=0.05$) than the control survival for the low flow or critical dilution? _____ Yes _____ No

DILUTION SERIES RESULTS - Menidia

| TIME OF READING | REP | 0% | 1.2% | 1.6% | 2.1% | 2.8% | 3.7% |
|-----------------|-----|----|------|------|------|------|------|
| 24-HOUR | A | | | | | | |
| | B | | | | | | |
| | C | | | | | | |
| | D | | | | | | |
| | E | | | | | | |
| 48-HOUR | A | | | | | | |
| | B | | | | | | |
| | C | | | | | | |
| | D | | | | | | |
| | E | | | | | | |
| MEAN | | | | | | | |

2. Are the test results to be considered valid? _____ Yes _____ No
 If X no (test invalid), what are the reasons for invalidity?

3. Is this a retest of a previous invalid test? _____ Yes _____ No
 Is this a retest of a previous test failure? _____ Yes _____ No

4. Enter percent effluent corresponding to each NOEC (No Observed Effect Concentration) for Menidia beryllina:

NOEC = _____ % effluent
 LC₅₀48 = _____ % effluent

PRELIMINARY DRAFT

LOUISIANA WATER POLLUTION CONTROL FEE SYSTEM

RATING WORKSHEET

PERMIT NO. LA0049492 AI NO. 4634 Activity No.: PER200700021.a. Company Name LOOP LLC **DRAFT**1.b. Facility Name Deepwater Port Complex2. Local Mailing Address Post Office Box 7250Metairie, Louisiana 70010-7250

3. Billing Address (If different) _____

4.a. Facility Location 224 East 101 Place in Cutoff4.b. Parish Lafource5. Facility Type deepwater port and pipelines and storage facilities

6. Products Produced _____

6.a. Raw materials stored or used _____

6.b. By-products produced _____

7. Primary SIC Code 4612 7.a. Other SIC Codes 4463 and 5171

8. Fac. Manager _____ 8.a. Telephone _____

9. Owner _____ 9.a. Telephone _____

10. Env. Contact Cynthia Gardner-LeBlanc 10.a. Telephone (504) 363-9299

11. State Permit No. _____

12. NPDES Permit No. LA0049492

11.a. Date Issued _____

12.a. Effective Date 02/01/03

11.b. New _____ Modified _____

12.b. Expiration Date 01/31/08

13. Number and Identification of Outfalls Outfalls 001, 012, 018, 020, 021, 025, 026, and 027 - sw; Outfalls 002, 006, 007, 008, 023, and 024 - treated san. ww; Outfall 004 - brine; Outfall 005 - marine cargo hose testing water, wash water, and sw; and Outfall 015 - non-contact cooling water

14. Number of Injection Wells N/A

15. Water Source(s) _____

16. Receiving Water(s) Gulf of Mexico, Bayou Lafourche, Breton Canal, Bayou Moreau, LL&E Canal, and the Reservoir Canal17. River Basin Barataria18. Basin Segment No. 020403, 020801,020905, and 021102

TOTAL RATING POINTS ASSIGNED

124

Federal Tax I. D. No.: _____

sl Initials of Rater

1. FACILITY COMPLEXITY DESIGNATION

Primary SIC 4612Other SIC 4463, 5171

Complexity Designation = _____

PRELIMINARY DRAFT

| | | |
|----------|-----|-------------|
| _____ | I | (0 points) |
| <u>✓</u> | II | (10 points) |
| _____ | III | (20 points) |
| _____ | IV | (30 points) |
| _____ | V | (40 points) |
| _____ | VI | (50 points) |

COMPLEXITY DESIGNATION POINTS 10

2. FLOW VOLUME AND TYPE

A. Wastewater Type I

Is total Daily Average Discharge greater than 400 mgd?

Yes, then points = 200

No, then _____

Points = 0.5 X Total Daily Average Discharge (mgd)

Points = 0.5 X 4.32 = 2.16Total points = 2.16

B. Wastewater Type II

Points = 10 X Total Daily Average Discharge (mgd)

Points = 10 X 8.15 = 81.5Total points = 81.5

C. Wastewater Type III

Points = 2 X Total Daily Average Discharge (mgd)

Points = 2 X 0.0654 = 0Total points = 0FLOW VOLUME AND TYPE POINTS 84

3. POLLUTANTS

A. BOD or _____

Daily Average Load = _____

| | | |
|----------|---------------|-------------|
| <u>✓</u> | ≤ 50 lb/day | (0 points) |
| _____ | > 50 - 500 | (5 points) |
| _____ | > 500 - 1000 | (10 points) |
| _____ | > 1000 - 3000 | (20 points) |
| _____ | > 3000 - 5000 | (30 points) |
| _____ | > 5000 lb/day | (calculate) |

Points = 0.008 X Daily Average Load (lbs)

Points = 0.008 X 0 = 0COD or TOC

Daily Average Load = _____

| | | |
|----------|----------------|-------------|
| _____ | ≤ 100 lb/day | (0 points) |
| <u>✓</u> | > 100 - 500 | (5 points) |
| _____ | > 500 - 1000 | (10 points) |
| _____ | > 1000 - 5000 | (20 points) |
| _____ | > 5000 - 10000 | (30 points) |
| _____ | > 10000 lb/day | (calculate) |

Points = 0.004 X Daily Average Load (lbs)

Points = 0.004 X 0 = 0BOD OR COD DEMAND POINTS 5
(whichever is greater)

B. TSS

Daily Average Load =

PRELIMINARY

| | | |
|-----------|----------------|-------------|
| <u>✓</u> | < 100 lb/day | (0 points) |
| <u> </u> | > 100 - 500 | (5 points) |
| <u> </u> | > 500 - 1000 | (10 points) |
| <u> </u> | > 1000 - 5000 | (20 points) |
| <u> </u> | > 5000 - 10000 | (30 points) |
| <u> </u> | > 10000 lb/day | (calculate) |

Points = 0.004 X Daily Average Load (lbs)

Points = 0.004 X 0 = 0TSS POINTS 0C. TOXICITIESTotal Annual Discharge to Water = 0 (lbs)

Points = 0.01 X Annual discharge (lbs)

Points = 0.01 X 0 = 0TOXIC POINTS 0TOTAL POLLUTANT POINTS 54. TEMPERATURE (HEAT LOAD)Heat Load = Average Summer flow (mgd) X ΔT X 0.00834where ΔT = Permit Limit (Max. Temp.) -70°Heat Load = 0 (mgd) X 0 X 0.00834 = 0 Billion BTUHeat Load = 0 < 4 billion BTU (0 points)

> 4-20 billion BTU (5 points)

> 20-100 billion BTU (10 points)

> 100-200 billion BTU (15 points)

> 200 billion BTU (20 points)

HEAT LOAD POINTS 05. POTENTIAL PUBLIC HEALTH IMPACTS

Is the receiving water to which the wastewater is discharged or a water body to which it is a tributary used as a drinking water supply source within 50 miles downstream?

✓ No (0 points) Yes, then . . .

Complexity Designation

 I, II (0 points) III (5 points) IV (10 points) V (20 points) VI (30 points)POTENTIAL PUBLIC HEALTH IMPACT POINTS 06. MAJOR/MINOR FACILITY DESIGNATION

Has your facility been designated a Major Facility by the administrative authority?

✓ Yes, then Points = 25 No, then

were effluent limitations assigned to the discharge based on water quality factors in the receiving stream?

✓ No, then Points = 0 Yes, then Points = 5TOTAL MAJOR/MINOR POINTS 25TOTAL RATING POINTS ASSIGNED 124

ing these proposed criteria. However, it is anticipated that those costs will be off-set by the savings of expanding the scope of hazardous waste that can be recycled. For example, under the proposed rules, many generators will be able to recycle their hazardous wastes on-site as opposed to having to send them off-site to be recycled. In addition, it is likely that generators will have an expanded number of off-site facilities to which they can send their hazardous waste for recycling.

The proposed rules are anticipated to have only minimal fiscal impact on businesses, and that impact is expected to be positive as the rules will expand the scope of hazardous wastes that can be recycled. Financial assurance will be required for those verified recycling facilities and intermediate facilities that manage or handle hazardous secondary materials. Cost for financial assurance is estimated to be approximately 5% of the estimated cost to close and remediate a site or facility. Any costs are estimated to be offset by the savings in managing hazardous secondary materials instead of hazardous waste.

HB 2598

This part of the proposed rulemaking is not expected to result in fiscal implications for businesses or individuals as steel slag is already commonly recycled as non-waste by virtue of existing policies and solid waste exclusions.

e-Manifest Rule

Under the proposed rules, hazardous and Class 1 industrial waste generators, waste transporters, and owners and operators of treatment, storage and disposal facilities will have the option to use electronic manifests. The proposed rules will affect approximately 8,100 registered generators, transporters, and disposal facilities according to the TCEQ Central Registry database. The proposed rules could also affect unregistered generators of Class 1 industrial or hazardous waste, but the quantity of waste generated by those generators varies widely at any particular point in time.

Businesses that deal with hazardous waste will need to comply with federal regulations regarding the use of paper and electronic manifests. ✖ Businesses dealing with Class 1 waste have the option of using either paper or electronic manifests. However, disposal facilities may decide to require that generators and transporters only use electronic manifests when disposing of hazardous or Class 1 waste at that disposal facility.

The EPA will handle the administration and implementation of the electronic manifest system, including any fees involved. The EPA will assess what measures might be effective to expedite the transition from paper manifests to electronic manifests, and may take input on fee incentives such as shifting a greater portion of the electronic system development and operating cost to paper manifests. At this time, the EPA has not estimated the costs involved in the administration of the system. Therefore, any costs or costs savings cannot be determined with any certainty at this point in time.

CRT Rule

Businesses that export CRTs to other countries must provide notification to the EPA of CRT export activities and submit an annual report of these activities to the EPA. No notifications or annual reports will be required to be submitted to TCEQ. Since regulation of CRTs is under the EPA's jurisdiction, the number of CRT exporters in Texas is not known. However, it is estimated that the number of CRT exporters in Texas is small (less than 20).

A cost will be incurred by exporters of CRTs to generate an annual report of CRT export activities to submit to the EPA. In addition, a cost may be incurred by exports of used CRTs to translate normal business records maintained by exporters of used CRTs into English upon request.

Small Business and Micro-business Assessment

No significant adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. Small businesses that generate wastes are typically conditionally exempt small quantity generators. The great majority of small businesses do not generate by-products or types of sludge.

A fairly large number of small businesses do generate spent materials. However, a large number of these spent materials are either already entitled to be exempt from being a solid waste under existing exclusions under Chapter 335 or are covered under the broad conditional exclusion available to conditionally exempt small quantity generators.

Conditionally exempt small quantity generators are not required to follow the reporting requirements of the CRT export rule and they are exempt from the manifesting requirements. Steel slag generators and users are not typically small businesses. It is therefore anticipated that the proposed rules will not have a significant impact on small businesses.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect small or micro-businesses in a material way for the first five years that the proposed rules are in effect and because the proposed rules are required by state law and federal regulations.

Local Employment Impact Statement

The commission has reviewed the proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of the Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to Texas Government Code, §2001.0225 because the proposed rules do not meet the definition of a "Major environmental rule" as defined in the act and do not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a).

"Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed rules are not major environmental rules because they are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state since the proposed rules promulgate existing requirements that are already imposed under state statute and 42 United States Code (USC), §6926(g).

7, 2014, issue of the *Federal Register* (79 FR 7518) by adding electronic manifest to be consistent with the definition of "Manifest" in 40 CFR §260.10. See the Section by Section Discussion of §335.10 for additional information.

The commission adopts amended §335.1 to add the definition of "Remanufacturing" as §335.1(134) and rennumbers subsequent definitions accordingly. Specifically, this amendment conforms to federal regulations promulgated in the January 13, 2015, issue of the *Federal Register* (80 FR 1694) by adding the definition of "Remanufacturing" that is consistent with the definition of "Remanufacturing" in 40 CFR §260.10.

The commission adopts amended §335.1(146) to revise the definition of "Solid waste" to be consistent with state and federal law. This change adds requirements and opportunities for certain hazardous waste recycling activities including creating a classification as hazardous secondary materials for certain hazardous waste that will be recycled and exclusions from the definition of "Solid waste" for certain activities including the generator controlled exclusion, the verified recycler exclusion, and the remanufacturing exclusion. Additionally, this amendment adds references to the sections of this chapter that relate to solid waste that is being recycled. Specifically, this amendment conforms to federal regulations promulgated in the January 13, 2015, issue of the *Federal Register* (80 FR 1694) by changing the scope of the current definition of "Solid waste" to be consistent with the definition of "Solid waste" in 40 CFR §261.2.

The commission further amends the definition of "Solid waste," by adopting a new exclusion from regulation as a solid waste for certain recycled steel slag as subparagraph (M). This change excludes steel slag, when recycled in accordance with certain criteria from regulation as a solid waste. Specifically, this amendment promulgates a new exclusion from regulation as a solid waste for recycled steel slag as codified in THSC, §361.040 (HB 2598).

The commission adopts amended §335.1 to expand the scope of the definition of "Transfer facility," renumbered as §335.1(161), to include management of hazardous secondary material. Specifically, this amendment conforms to federal regulations promulgated in the January 13, 2015, issue of the *Federal Register* (80 FR 1694) by revising the current definition of "Transfer facility" to be consistent with the definition of "Transfer facility" in 40 CFR §260.10.

The commission adopts amended §335.1 to add the definition for "User of the electronic manifest system" as §335.1(180) and rennumbers subsequent definitions accordingly. Specifically, this amendment conforms to federal regulations as promulgated in the February 7, 2014, issue of the *Federal Register* (79 FR 7518) by adding the definition of "User of the electronic manifest system" consistent with the definition of "User of the electronic manifest system" in 40 CFR §260.10. See the Section by Section Discussion of §335.10 for additional information.

§335.10, Shipping and Reporting Procedures Applicable to Generators of Hazardous Waste or Class 1 Waste and Primary Exporters of Hazardous Waste

In the February 7, 2014, issue of the *Federal Register* (79 FR 7518), the EPA established new requirements authorizing the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. The commission adopts these changes to conform its rules to the EPA's, thereby allowing persons the ability to participate in the EPA's e-Manifest system, including Class 1 waste.

The Hazardous Waste Electronic Manifest Establishment Act, Public Law 112-195 directed the EPA to implement a national electronic manifest system and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system. The EPA announced explicitly that electronic manifest documents obtained from the Agency's national e-Manifest system and completed in accordance with applicable regulations are the legal equivalent of the paper manifest forms (EPA Forms 8700-22 and 8700-22A) currently authorized for use in tracking hazardous waste shipments. Upon completion of the e-Manifest system, the electronic manifest documents authorized by this final regulation will be available to manifest users as an alternative to the paper manifest forms to comply with federal and state requirements for the use of the hazardous waste manifest.

As of this rule adoption, the EPA has not implemented the electronic manifest system. The EPA has delayed the compliance date for its regulations until the e-Manifest system is ready for operation and after the announcement of the schedule of fees for manifest related services. The EPA will publish a further document subsequent to this rule's effective date to announce the user fee schedule for manifest related activities. This document will also announce the date that compliance with the federal e-Manifest regulation will be required and when the EPA will be ready to receive electronic manifests through the national e-Manifest system. Please see the EPA's website at <http://www3.epa.gov/epawaste/hazard/transportation/manifest/e-man.htm> for further information regarding implementation of the electronic manifest system including equipment requirements, compliance dates, etc.

The EPA has authorized the use of its electronic manifest system to allow states to use the system for shipments of waste required to have a manifest under state law. The commission adopts giving persons the flexibility to use the EPA's electronic manifest system or paper manifests for shipments of Texas Class 1 waste.

The commission adopts amended §335.10 to allow the use of either EPA ID numbers or Solid Waste Registration numbers when completing a manifest for Class 1 waste. The commission adopts amended §335.10 by incorporating by reference the Electronic Manifest System published in the February 7, 2014, issue of the *Federal Register* (79 FR 7518). This change will add references to 40 CFR §§262.20, 262.24, and 262.25. Incorporation of these federal requirements provide generators of hazardous and industrial waste the option of using the electronic manifest system or the paper manifest and establish that the electronic manifest is legally equivalent to the paper manifest. The commission adopts amended §335.10(a) to remove §335.10(a)(3) and (4) because the EPA is implementing the e-Manifest system instead of TCEQ.

§335.11, Shipping Requirements for Transporters of Hazardous Waste or Class 1 Waste

The commission adopts amended §335.11 to incorporate by reference the Electronic Manifest System as published in the February 7, 2014, issue of the *Federal Register* (79 FR 7518). This change will incorporate the requirements of 40 CFR §263.22 and §263.25.

§335.12, Shipping Requirements Applicable to Owners or Operators of Treatment, Storage, or Disposal Facilities

The commission adopts amended §335.12 to incorporate by reference the Electronic Manifest System as published in the Feb-

